

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. Plaintiff Juanita Wilson, proceeding *pro se*, filed a complaint against Defendant Wells Fargo alleging violations of the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. (ECF No. 1). On November 8, 2019, the Magistrate Judge issued an order advising Plaintiff as to the deficiencies of her complaint and directing Plaintiff to bring the case into proper form by December 5, 2019. (ECF No. 8). The order stated that no process would issue until Plaintiff had cured the specified deficiencies and further warned that failure to bring the case into proper form within the time permitted by the order may result in the court dismissing the case under Federal Rule of Civil Procedure 41. *Id.* Plaintiff did not bring the case into proper form or otherwise respond to the order. Accordingly, on December 11, 2019, the Magistrate Judge issued a Report and Recommendation recommending that this case be dismissed without prejudice and without issuance and service of process pursuant to Rule 41. (ECF No. 11). The Report and Recommendation advised Plaintiff as follows:

If the Plaintiff satisfies the requirements for proceeding with this case as is set forth in the proper form Order within the time set forth for filing objections to this Report and Recommendation, the Clerk is directed to vacate this Report and Recommendation and return this file to the

undersigned for further handling. [] However, if Plaintiff fails to do so, then at the end of the time for filing objections, the Clerk shall forward this Report and Recommendation to the District Judge for disposition.

(*Id.* at 2). On December 16, 2019, Plaintiff filed a motion construed by the Clerk's Office as a request to submit evidence. (ECF No. 13). Plaintiff has not filed a specific objection to the Report and Recommendation, nor has she brought her complaint within proper form.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, the Court need not conduct a *de novo* review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the Magistrate Judge’s conclusions are reviewed only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Plaintiff has not filed an objection to the Report and Recommendation and the deadline for doing so expired on December 30, 2019. To the extent Plaintiff’s motion to submit evidence could be construed as an objection to the Report and Recommendation, the Court finds that the motion asserts no challenge to the Magistrate Judge’s findings, specific or otherwise. In the absence of specific objections to the Magistrate Judge’s Report and Recommendation, this Court is not required to provide

an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Indeed, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee’s note).

Here, because Plaintiff failed to file a specific objection, the Court has reviewed the Magistrate Judge’s findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff’s complaint is subject to summary dismissal for the reasons stated in the Report and Recommendation. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
Bruce Howe Hendricks
United States District Judge

January 2, 2020
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.